

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOUGLAS McKENZIE and JEFFREY
BIGSBY,

Plaintiff,

vs.

GEICO MARINE INSURANCE COMPANY,
a Maryland corporation,

Defendant.

No. 2:22-cv-00647-BJR

**STIPULATED MOTION FOR AND
ORDER OF DISMISSAL OF CERTAIN
CLAIMS WITH PREJUDICE**

I. STIPULATION

COME NOW the undersigned parties and stipulate and agree as follows:

The Parties have conferred on this matter and reached an agreement in which Plaintiffs Douglas McKenzie and Jeffrey Bigsby hereby agree to dismiss certain claims against Defendant Geico Marine Insurance Company (“GMIC”) with prejudice as stated herein.

1. The Parties agree and stipulate to dismissal of all claims made or that could have been made against GMIC with prejudice and without costs or fees, including but not limited to any *per se* Consumer Protection Act (CPA) claim, Breach of Contract, Negligence, Bad Faith or Insurance Fair Conduct Act. However, the parties agree that to the extent Plaintiffs have pled facts sufficient to establish a cause of action of a **non per se** theory under Washington’s Consumer

1 Protection Act, such claim is not dismissed by this Stipulation and Order.

2 2. GMIC preserves all rights and defenses to non per se theory or cause of action,
3 including by way of Motion to Dismiss under Rule 12(b)(6) of the Federal Rules of Civil
4 Procedure.

5 3. The parties agree and stipulate that Defendant GMIC shall have until July 13, 2022
6 to file a Motion to Dismiss under Rule 12(b)(6) or otherwise answer the Complaint with respect
7 to any remaining non *per se* CPA claim.

8 DATED this 24th day of June, 2022.

DATED this 24th day of June, 2022.

9 FORSBERG & UMLAUF, P.S.

THOMAS D. BIGSBY, PLLC

10 *s/Ryan J. Hesselgesser*

s/Thomas D. Bigsby

11 Ryan J. Hesselgesser, WSBA #40720

Thomas D. Bigsby, WSBA #378

12 Joshua C. Dotson, WSBA #57921

Attorneys for Plaintiffs Douglas McKenzie
and Jeffrey Bigsby

Attorneys for Defendant GEICO Marine
Insurance Company

1 **II. ORDER**

2 THIS MATTER having come on before the above-entitled court on the above stipulation
3 of the parties through their counsel of record, now, therefore, it is hereby ORDERED that:

4 1. Other than any non per se claim under RCW 19.86, Washington's Consumer
5 Protection Act, all Claims asserted or that could have been asserted by Plaintiffs in their Complaint
6 are dismissed with prejudice and without an award of costs or fees.

7 2. GEICO Marine Insurance Company shall answer or otherwise move to dismiss the
8 remaining non per se Consumer Protection Act on or before July 13, 2022.

9 Dated: July 1, 2022

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11 Honorable Barbara J. Rothstein
12 United States District Judge
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